

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-MC-00028**

IN RE: )  
 )  
FORTITUDE FINANCIAL )  
INVESTMENTS, INC., )  
 )  
Plaintiff, )  
v. )  
LSTAR MANAGEMENT, LLC, )  
 )  
Defendant. )  
 )  
\_\_\_\_\_  
 )

**MEMORANDUM IN SUPPORT  
OF RECEIVER'S MOTION TO  
APPROVE SETTLEMENT AND  
RELEASE AGREEMENT**

**INTRODUCTION**

Margaret R. Westbrook, Esq. (“Receiver”), as Receiver for LStar Management, LLC (“Management”), by and through undersigned counsel, files this Memorandum in Support of Receiver’s Motion to Approve Settlement and Release Agreement (the “Motion”), seeking the Court’s approval of the proposed Settlement and Release Agreement (“Settlement Agreement”) between Patrick Sullivan, William Hampton Pitts, and Rachel Vradenburgh (the “Employees”), LStar Development Group, Inc. and Landquest Legacy of North Carolina, LLC and its subsidiary and affiliate companies (collectively “Development”), Kyle V. Corkum (“Corkum”), Management, and Receiver (the Employees, Development, Corkum, Management, and the Receiver may be referred to collectively herein as the “Parties” or individually as a “Party”).

Receiver respectfully requests that the Court approve the proposed Settlement Agreement as it is in the best interests of Management’s creditors. Absent the Court’s approval of the Settlement Agreement, Receiver will incur additional costs and legal fees litigating the Employees’ claims. By approving the Settlement Agreement, the Receiver can reduce costs so as to preserve

Management's funds for the benefit of Management's creditors.

## ARGUMENT

On March 11, 2020, the Court entered an Order Granting Motion for Appointment of Receiver (ECF No. 9 - the "Receivership Order"), appointing Margaret R. Westbrook, Esq. as the receiver for Management. Among other things, the Receivership Order tasks the Receiver with acting "in the best interest of the Receivership Estate." Receivership Order at 2, ¶ 1(v). To that end, the Receivership Order also grants the Receiver the authority to "enter into such contracts ... as are necessary for the management, care, repair, preservation, accounting, security, insuring, and/or liquidation of the Receivership Assets." Receivership Order at 4, ¶5(ix).

On August 17, 2020, the Employees asserted a claim against the Receivership Assets of Management in the collective amount of \$947,499.94 for unpaid wages the Employees allege they are owed by LStar Development Group, Inc. ("Development") and further allege Management is obligated to pay in Development's stead (the "Claims"). The Employees separately filed a lawsuit seeking to recoup those same lost wages with the United States District Court for the Eastern District of North Carolina against Development captioned *Pitts, et al. v. LStar Development Group, Inc.*, Case Number 5:20-CV-0525. The Employees have not instituted formal legal proceedings against Management to date, but threatened to do so by letter dated April 17, 2020 if the Receiver failed to pay the Claims. The Parties recognize that full prosecution of the Claims asserted against Management by the Employees would require Receiver to devote substantial resources from the Receivership Estate to adequately participate in the proceedings and defend the assets of Management. Accordingly, Receiver believes that it is in Management's best interest to settle the Claims in the form of the Settlement Agreement.

In light of the above, the Employees and Receiver entered into settlement negotiations in

an effort to resolve their dispute. As a result of those discussions, the Employees and Receiver have agreed that, subject to the Court's approval, settlement of the Claims is in the best interests of both the Employees and the Receivership Estate. The parties have accordingly jointly negotiated and prepared a Settlement Agreement<sup>1</sup> resolving the Claims against Management for a payment of \$12,475.00 to each of the Employees.

By settling the Claims, Receiver believes Management's creditors will be better served than if Receiver were to litigate the Claims to their conclusion. By resolving the Claims without further legal proceedings, Receiver will be able to better maintain and preserve the current limited assets of the Receivership Estate as contemplated by the Receivership Order and avoid incurring substantial legal fees and costs. Receivership Order at 4, ¶5(ix). Indeed, the Settlement Agreement resolves all claims that the Employees have asserted or could assert in the future against any Management related entity whatsoever. The Settlement Agreement achieves this result at the cost of a payment of \$12,475.00 to each of the Employees, an amount the Receiver would quickly exceed in any litigation.

Based on the foregoing, the Court should approve the proposed Settlement Agreement to permit Receiver to preserve and maintain the current assets of the Receivership Estate.

### **CONCLUSION**

For these reasons, Receiver respectfully requests that the Court issue an Order approving the proposed Settlement Agreement.

Respectfully submitted, this the 26th day of May, 2022.

**K&L GATES LLP**

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<sup>1</sup> A true and accurate copy of the proposed Settlement Agreement has been attached hereto as **Exhibit A**.

*/s/ Margaret R. Westbrook*

Margaret R. Westbrook

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a copy of this document to be filed electronically through CM/ECF and, thus, to be served by electronic notification on those parties properly registered for electronic service through this Court's CM/ECF system, including the following:

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Respectfully submitted this 26th day of May, 2022.

**K&L GATES LLP**

*/s/ Margaret R. Westbrook*

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